

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Ronald A. Isler,

Plaintiff,

v.

Jo Anne B. Barnhart,
Commissioner of Social Security,

Defendant.

No. CV-04-587 TUC-JMR

ORDER

This case arises from a claim by Plaintiff for Social Security benefits. The Honorable Peter J. Baum ("ALJ") determined that Plaintiff was not disabled as defined by the Social Security Act. Plaintiff's request for review of the ALJ's was denied by the Appeals Council. Thereafter, Plaintiff initiated this action. Pending before this Court are cross-motions for summary judgment.

On October 19, 2005, after a thorough and well-documented analysis, Magistrate Judge Glenda Edmonds issued a Report and Recommendation (R & R) to this Court. Neither party filed an objection to the R & R. The Magistrate Judge recommended that this Court grant Plaintiff's motion in part and deny Defendant's motion. In her analysis, Judge Edmonds concluded that the final decision of the Commissioner is not supported by substantial evidence, namely that the medical records do not support the Commissioner's finding that Plaintiff retained the ability to perform light work before his insured status expired.

If there are no objections to the R & R, the Court will modify or set aside only those portions that are clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998). The Court has carefully reviewed the entire record and concludes that the recommendation of Magistrate Judge Edmonds is neither clearly erroneous nor contrary to law. The Court agrees that the Commissioner's findings are not supported by substantial evidence.

Accordingly,

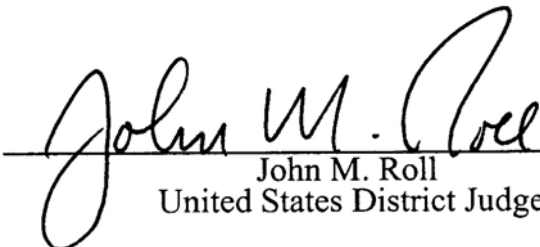
IT IS ORDERED that the **REPORT AND RECOMMENDATION** of the Magistrate Judge filed **October 19, 2005**, is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's motion for summary judgment (Doc. No. 9) is **GRANTED IN PART** consistent with the Report and Recommendation.

IT IS FURTHER ORDERED that Defendant's motion for summary judgment (Doc. No. 11) is **DENIED**.

IT IS FURTHER ORDERED that the instant action is **REMANDED TO THE COMMISSIONER** for further development of the record consistent with this **ORDER** and the **REPORT AND RECOMMENDATION** and for further appropriate administrative proceedings consistent with that additional development.

DATED this 24th day of January, 2006.



John M. Roll
United States District Judge